

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON

|                          |   |                     |
|--------------------------|---|---------------------|
| MBNA AMERICA BANK, N.A., | ) |                     |
|                          | ) |                     |
| Plaintiff,               | ) | Case No. 05-1330-KI |
|                          | ) |                     |
| vs.                      | ) | OPINION AND ORDER   |
|                          | ) |                     |
| RICO M. GARCIA,          | ) |                     |
|                          | ) |                     |
| Defendant.               | ) |                     |

Krista L. White  
Bishop, White & Marshall, P. S.  
720 Olive Way, Suite 1301  
P. O. Box 2186  
Seattle, Washington 98101

Attorney for Plaintiff

Rico M. Garcia  
2229 N. E. Burnside Street, #15  
Gresham, Oregon 97030-8057

Pro Se Defendant

KING, Judge:

This is the second action Garcia brought against MBNA America Bank, N.A. (“MBNA”) in federal court concerning the arbitration award MBNA won against Garcia in the amount of \$23,515.33. MBNA filed a petition in Multnomah County Circuit Court to confirm the award.

Garcia attempted to challenge the award in this court by filing a new action numbered CV05-479-KI. On July 6, 2005, I dismissed CV05-479-KI after finding that Garcia did not meet his burden of establishing federal subject matter jurisdiction. After that action was dismissed, Garcia filed a Notice of Removal under that case number. I entered a minute order on September 26, 2005 explaining that the Notice of Removal had no effect and that to remove the Multnomah County action Garcia had to file a new action in federal court and pay another filing fee. I also cautioned, “Plaintiff is advised to first carefully review the Opinion dismissing his federal action to determine if a removed Multnomah County action would have federal subject matter jurisdiction.”

Garcia filed a new Notice of Removal against the Multnomah County action, received a new federal case number for the action now before me, and applied for leave to proceed in forma pauperis. Garcia states that there is diversity of citizenship but he still gives no explanation of how he can meet the jurisdictional amount of \$75,000, as described in my Opinion dismissing his first federal action. Consequently, I again conclude that federal subject matter jurisdiction does not exist and remand the action under 28 U.S.C. § 1447(c).

MBNA again seeks sanctions. I decline to award them but caution Garcia that if he removes the Multnomah County action again, or files another federal action on this issue, and I determine that he did either in a legally insufficient manner, I will award sanctions against him.

Motion to Dismiss Defendant's Petition (#4) and Amended Motion to Dismiss Defendant's Petition (#7) are granted as explained above. This action is remanded to Multnomah County Circuit Court. All other pending motions are moot.

IT IS SO ORDERED.

Dated this 26th day of September, 2005.

/s/ Garr M. King  
Garr M. King  
United States District Judge